UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/34
25 February 2000

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the human rights situation in Burundi submitted by the Special Rapporteur, Mrs. Marie-Thérèse A. Keita Bocoum, in accordance with Commission resolution 1999/10

CONTENTS

	Paragraphs	Page
Summary		3
Introduction	1 - 17	5
I. GENERAL SITUATION	18 - 47	8
A. Impact of history	19 - 35	8
B. Political situation	36 - 44	10
C. Economic and social situation	45 - 47	12

GE.00-11295 (E)

CONTENTS (continued)

		Paragraphs	Page
II.	HUMAN RIGHTS SITUATION	48 - 132	12
	A. Violations connected with the armed conflict	49 - 54	12
	B. Violations connected with population displacements	55 - 56	13
	C. Violations of the right to freedom of movement and freedom to choose one's residence	57 - 67	14
	D. Violations of freedom of expression	68	15
	E. Violations of the right to life	69 - 91	16
	F. Violations of the right to personal freedom and security	92 - 104	20
	G. Violations of the right of trade unions to function freely	105	22
	H. Violations of the rights of persons deprived of their liberty	106 - 119	23
	I. Status of women	120 - 122	25
	J. Strengthening the rule of law	123 - 132	25
III.	OBSERVATIONS	133 - 144	27
IV.	RECOMMENDATIONS	145 - 167	29
	A. To the parties to the conflict	145 - 148	29
	B. To the Burundian authorities	149 - 157	29
	C. To the international community	158 - 167	30

Summary

The present document is the first report submitted by Mrs. Marie-Therese A. Keita Bocoum, who was appointed as Special Rapporteur on the human rights situation in Burundi on 10 August 1999. It is submitted in accordance with Commission on Human Rights resolution 1999/10 of 23 April 1999. The Special Rapporteur's mandate requires her to submit an interim report to the General Assembly at its fifty-fourth session and a report to the Commission at its fifty-sixth session.

This first report, which covers the period from 15 August to 15 November 1999, relates to the general situation in Burundi and, in particular, to the question of human rights, the status of women, the rights of the child and the importance of civil society in the process of the promotion of and respect for human rights. It is based on the Special Rapporteur's mission to Burundi from 8 to 22 October 1999. Following this first mission, the Special Rapporteur also submitted an oral presentation on the human rights situation in Burundi to the Third Committee of the General Assembly in New York on 5 November 1999.

Part I of the present report on the general situation in Burundi is a brief analysis of the impact of history on the development of the conflict in Burundi, the current political situation and the economic and social situation.

Part II deals with the particular situation of human rights, especially violations resulting from the armed conflict and the displacement of persons; violations of the right to life and the right to freedom of movement, freedom to choose one's residence, freedom of expression and liberty and security of person; violations of the right of trade unions to function freely and the rights of persons deprived of liberty; and the status of women and programmes to strengthen the rule of law.

The observations and recommendations based on these initial findings are to be found in parts III and IV. The observations relate to violations of human rights, forced displacements, violations of the rights of children, the way the human rights situation is perceived by political circles, the judiciary and civil society in Burundi; the attitude of the international community and donors towards development assistance; the implications of the conclusion of a peace agreement in Arusha; and the impact of tradition on the human rights situation and the economic situation.

The recommendations deriving from these observations are addressed to the parties to the conflict, the Burundian authorities and the international community. At the national level, they relate to respect for human rights and the assistance needs of the population affected by the civil war, the conduct of the parties to the conflict and the protection of civilians, the peace negotiations in Arusha and the conclusion of a ceasefire, and the policy of forced population displacement and security measures for the resumption of humanitarian assistance. The Special Rapporteur also recommends that the authorities should support civil society in its efforts to guarantee the advancement of women, increase the resources allocated to the Ministry of Social Action and the Advancement of Women and ensure that legislation is enacted with a view to the advancement and fulfilment of women in order to combat de facto inequalities and increase the participation of women in development and political decision-making. At the international level, the Special Rapporteur recommends that the international community should provide assistance

for the Arusha peace process and that donors should reconsider their attitude towards development assistance. The Special Rapporteur requests that programmes and initiatives designed to combat impunity and irregularities in the administration of justice should be maintained and encouraged. Support for international programmes on behalf of women, particularly those designed to heighten awareness of the rights of women and children, should also be increased. The Special Rapporteur likewise requests that emergency humanitarian assistance should be maintained, provided that security is guaranteed. She appeals to the international community and the States of the subregion to intensify measures to combat the arms and munitions trade and supports the idea of an international conference on peace and security in the Great Lakes region. Lastly, she requests that fuller support should be given to initiatives for human rights education and promotion in Burundi in order to encourage the establishment of a human rights culture.

Introduction

1. The present document is the first report submitted by Mrs. Marie-Therese A. Keita Bocoum, who was appointed as Special Rapporteur on the human rights situation in Burundi on 10 August 1999 to replace Mr. Paulo Sérgio Pinheiro, who served as the first Special Rapporteur from May 1995 to June 1999. The Special Rapporteur's mandate requires her to submit an interim report to the General Assembly and a report to the fifty-sixth session of the Commission on Human Rights and to give her work a gender-specific dimension. This first report covers the period from 15 August to 15 November 1999 and relates to the general situation in Burundi, particularly the human rights situation.

2. A few days after her appointment, the Special Rapporteur met with various persons at the Office of the United Nations High Commissioner for Human Rights in Geneva in order to determine exactly what her mission involved. She thus spoke with the Burundi and Africa desk officers, the officials in charge of the Activities and Programmes Branch and the Special Rapporteur on the question of torture. She greatly appreciated the explanations they gave her on the human rights situation in Burundi, her mandate as Special Rapporteur and the policies of the Office of the United Nations High Commissioner for Human Rights and the way it works.

3. The Special Rapporteur had a meeting with the High Commissioner for Human Rights, Mrs. Robinson, to whom she explained her views and expectations about her mission to Burundi. She also met with the Chairperson of the Commission on Human Rights, Mrs. Anderson, and the leader of the African Group, Mr. Morjane, Ambassador of Tunisia. She spoke with Mr. Adolphe Nahayo, head of the Permanent Mission of Burundi to the United Nations Office at Geneva, from whom she obtained information about the situation in the country. She informed them that she intended to go to Burundi as soon as possible to observe the human rights situation in person.

4. That intention was referred to in a letter addressed to the Government of Burundi and, more particularly, to the Minister for Human Rights, Institutional Reforms and Relations with the National Assembly through the intermediary of the Head of the Mission of Burundi in Geneva. The letter gave the planned dates of the mission. In its reply, the Government assured the Special Rapporteur of its full availability and support for the accomplishment of her mission.

5. The mission to Burundi began on 8 October 1999, after two days in Geneva, and ended on 22 October 1999. It was followed, from 22 to 26 October in Geneva, by a series of discussions, with the High Commissioner, for example, during which the Special Rapporteur described her impressions, and by a press conference, which was held on the morning of 25 October 1999.

6. During the mission, the Special Rapporteur met with the highest authorities in Burundi: Mr. Frédéric Bamvuginyumvira, first Vice-President of the Republic; Mr. Eugène Nindorera, Minister for Human Rights, Institutional Reforms and Relations with the National Assembly; Mr. Séverin Ntahomvukiye, Minister for Foreign Affairs and Cooperation; Colonel Alfred Nkurunziza, Minister of National Defence; Mr. Prosper Mpawenayo, Minister of National Education; Mrs. Romaine Ndorimana, Minister of Social Action and the Advancement of Women; Mr. Pascal Nkurunzira, Minister for the Reintegration and Resettlement of Displaced

and Repatriated Persons, Mr. Luc Rukingama, Minister of Communications and Government Spokesman, Mr. Léon Nimbona, Minister of Planning, Development and Reconstruction, the Director-General of the Prison Administration, and Ambassador Cyprien Mboninpa from the Ministry in charge of the peace process. The Special Rapporteur met political figures who are not members of the Government, such as former President Sylvestre Ntibantunganya and the leaders of political parties across the spectrum. The discussions took place in a frank and cordial atmosphere. The Special Rapporteur was, however, unable to meet with the President of the Republic and the President of the National Assembly, who had gone to Arusha to attend Mr. Nyerere's funeral, or with the Ministers of the Interior, Health and Justice because of their heavy programme of work.

7. The Special Rapporteur spoke with several justice officials: Mr. André Nyankiye, President of the Supreme Court, Mr. Gérard Ngendabanka, Attorney-General of the Republic, Mr. Tharcisse Ntakiyica, President of the Bar Association, and Mr. Segatoye, Supreme Court counsel. She also heard the viewpoint of prisoners during her visit to Mpimba prison in Bujumbura and the cachots of the Special Investigations Brigade (BSR) in Bujumbura.

8. The Special Rapporteur held talks with Mr. Sy, Special Representative of the Secretary-General for Burundi, who gave her invaluable assistance. During her meetings with senior officials of the United Nations system, particularly Mrs. Kathleen Cravero Kristoffersson, Resident Coordinator of the United Nations system's operational activities for development, the Special Rapporteur appreciated the efforts made to provide her with the assistance and documentation she needed to ensure the success of her mission.

9. The Special Rapporteur also spoke with members of the diplomatic corps, particularly the ambassadors of France, Russia, China, Egypt and Belgium, the representative of the Apostolic Nuncio, the chargés d'affaires of the United States, the Netherlands and Rwanda, the representative of the European Union and the representative of the International Committee of the Red Cross (ICRC). She met with the representatives of employers' organizations, trade unions composed of persons who work in various occupational groups and members of local and international non-governmental organizations and availed herself of the opportunity to hold discussions with members of civil society, especially women's and human rights associations, and with representatives of the Muslim and Christian religious communities.

10. The Special Rapporteur's discussions with all these persons related to the general situation in Burundi, the question of human rights, the status of women, the rights of the child and the importance of civil society in the process of the promotion of and respect for human rights in Burundi.

11. The Special Rapporteur thanks the Government of Burundi, the heads of diplomatic missions, the Special Representative of the Secretary-General, the heads of United Nations agencies in Burundi and, in particular, the Director and the staff of the Office of the United Nations High Commissioner for Human Rights in Burundi (OHCDHB) for their availability and the assistance they provided throughout her mission. She takes this opportunity to pay a tribute to the work done by her predecessor, Mr. Paulo Sérgio Pinheiro, who served for four years with competence and dedication as Special Rapporteur on the human rights situation in Burundi.

12. The initial programme of the mission provided for visits inside the country, particularly in the provinces of Ngozi, Bujumbura-Mairie, Makamba and Bujumbura-rural; visits to camps for "regrouped" and displaced persons; prisons; and regional and provincial courts. However, the great insecurity resulting from the renewed outbreak of armed conflict between government forces and the rebels and, in particular, the serious incident of 12 October 1999, which cost the life of several Burundian dignitaries and expatriates in Muzye in the province of Rutana, led to changes in the mission's programme; the Special Rapporteur had to restrict her travel to the capital - and to areas authorized by the United Nations Security Unit. She also had to observe the ceasefire imposed on United Nations officials from 8 p.m. to 7 a.m. For all these reasons, the initial programme was changed several times.

13. Consequently, some discussions which would have been helpful for understanding the human rights situation in Burundi could not take place, even though the Special Rapporteur had received confirmation that they would be held. To remedy these shortcomings and with a view to fuller understanding of the human rights situation, the Special Rapporteur often had to improvise meetings with persons who could give her information on matters relating to Burundi and, when security so allowed, make visits to unscheduled places.

14. The Special Rapporteur's stay was marked by several serious incidents: the death of the former President of Tanzania, Mr. Julius Nyerere, the mediator of the Arusha negotiations; armed attacks in the provinces of Bujumbura-rural and Bujumbura-Mairie; the increase in the number of so-called "protection sites", especially in the province of Bujumbura-rural; and the murder in Muzye of two United Nations officials, Luis Zuñiga, UNICEF representative in Burundi, and Saskia von Meijenfeldt, WFP logistics official, and of seven Burundians who were carrying out a humanitarian mission in the province of Rutana under the leadership of Mrs. Cravero Kristoffersson (see para. 98).

15. These odious murders led to the implementation of phase IV of the United Nations Security Plan and the cancellation, for security reasons, of all travel by the Special Rapporteur within the country and even in parts of Bujumbura. The start of phase IV led to a sharp reduction (50 per cent and more) in the staff of the United Nations and some NGOs. The courage and self-denial of members of humanitarian and human rights organizations who are making untiring efforts to help the Burundian people, particularly the most underprivileged, are to be commended.

16. The Special Rapporteur had planned to undertake a second mission to Burundi in early January 2000, but the continuing lack of security and the maintenance of phase IV - and probably also financial constraints - did not allow her to make the trip, which might be postponed until a later date.

17. Part I of the present report will deal with the analysis of the general situation in Burundi, part II with the particular situation of human rights in Burundi, part III with observations, and part IV with recommendations based on these preliminary findings.

I. GENERAL SITUATION

18. The general situation in Burundi is influenced by history, political events and the economic and social situation. The civil war creates victims among the civilian population everyday. In recent months, there have been renewed outbreaks of armed conflict and violence.

A. Impact of history

19. According to estimates, Burundi's population is between 6.5 and 7 million inhabitants, divided into three groups: Hutus (about 85 per cent), Tutsis (about 14 per cent) and Twas (about 1 per cent). Burundians share the same language, Kirundi, which is both the official and the national language. Despite this tripartite composition, Burundians used to live without ethnic barriers.

20. Two princely dynasties (Ganwa) fought to gain control of the country during the colonial period (1889-1962), as they had done before colonization. The Union pour le progrès national (UNPRONA) was dominated by the Bezi Ganwa, while the Parti démocrate chrétien (PDC) was headed by the Batari Ganwa. The September 1961 legislative elections were won by UPRONA, but Prince Louis Rwagasoré, Prime Minister-designate, was murdered one month later. His successor conducted the negotiations leading up to independence on 1 July 1962. From then on, politics was marked by the rivalry between Hutus and Tutsis.

21. On 28 November 1966, Captain Michel Micombero, the Tutsi Prime Minister belonging to the Hima group, overthrew the monarchy and proclaimed the Republic. Power then passed into the hands of the army. Renewed violence followed. The most serious massacres took place in 1972 and were started by Hutu soldiers belonging to the Burundian refugee community in Tanzania; thousands of Tutsis were killed. The Tutsis reacted immediately by taking reprisals, the first targets of which were educated Hutus: secondary school and university students, teachers, nurses, doctors, priests, university professors, etc. This disaster cost the life of over 100,000 Hutus and led to the large-scale exodus of members of this community.

22. The massacres, which had far-reaching effects on Burundi, unfortunately went unpunished. There was never any official inquiry to determine responsibility and bring the persons who had carried out the killings to justice.

23. The overthrow in November 1976 of President Micombero by Colonel Jean-Baptiste Bagaza, who was also a Hima, brought about an 11-year lull and the return of many refugees. However, power remained entirely in the hands of the Tutsis. The reaction of the community of Burundian Hutu refugees living in Tanzania was to create the Parti de la libération du peuple hutu (PALIPEHUTU) in 1980. In September 1987, Bagaza was deposed by a group of officers led by Major Pierre Buyoya.

24. When he acceded to the highest office, Pierre Buyoya took measures to share power more equitably. In October 1988, he established a national unity commission composed of Hutus and Tutsis in equal numbers and requested it to consider the ethnic question. He reshuffled his cabinet and gave slightly more than half the portfolios, including that of Prime Minister, to Hutus. Major institutional reforms took place and the army abandoned politics. A new

constitution, which entered into force on 13 March 1992, ended 16 years of single-party rule. The traditional administrative bodies, factors in national integration, were re-established.

25. These efforts to bring about harmony nevertheless came up against extremists on both sides. In 1991 and 1992, PALIPEHUTU officials committed extremely lethal acts against Tutsis that called for a firm reaction on the part of the authorities. The survivors established militias which joined in with the army to carry out executions of Hutu civilians. The extremist faction in the army which came out in favour of Colonel Bagaza was decapitated. However, the preparations for the June 1993 presidential election went off calmly. A dozen political parties were set up, but the competition was mainly between UPRONA and the Front pour la démocratie au Burundi (FRODEBU).

26. On 1 June 1993, the first presidential election in Burundi's history, which was held in satisfactory conditions, saw the overwhelming victory of the FRODEBU candidate, Melchior Ndadaye. Pierre Buyoya accepted the results and urged Burundians to do the same. Legislative elections held in an atmosphere of calm a few weeks later were won by FRODEBU with 71.4 per cent of the votes. Ndadaye formed a government of 23 members, of whom the Prime Minister and 9 others were Tutsis.

27. The democratic experiment was short-lived because, after a first unsuccessful attempt, Tutsi parachutists overthrew President Ndadaye, who was assassinated on 21 October 1993. Hutu civilians launched intense offensives against the Tutsis. Soldiers called out to re-establish order massacred Hutus in their turn. Refugees once again left the country to escape being massacred.

28. As a result of the international community's condemnations, the persons responsible for the coup d'état re-established constitutional rule until March 1994, when serious disturbances broke out. On 6 April 1994, the plane carrying President Cyprien Ntaryamira was shot down over Kigali, in Rwanda. The President of the National Assembly, Sylvestre Ntibantunganya, who inherited power, took over in the meantime and began negotiations during which UPRONA and FRODEBU both remained inflexible.

29. The disturbances which followed this conflict adversely affected human rights. The two parties were equally guilty of serious violations of human rights during and after the 1993 coup d'état. The October 1993 events were so disruptive of the functioning of the country's political institutions that, even one year later, international organizations still had no one to speak with because many officials who had fled the country had not resumed their posts. The problem affected many activities, including the distribution of food aid and the operation of hospitals and schools.

30. The destruction of the social fabric appears to be the most serious consequence of the crisis. For some, the situation has reached the point where the Government has no other means of asserting itself than systematic open warfare. Traditional values are crumbling. The distrust which characterized relations between ethnic groups has in many cases turned to hatred. Each community fears exclusion if the other is in power.

31. After the Ndadaye Government was overthrown in October 1993, the international community chose to prevent further violent conflicts by working towards a political consensus aired at power-sharing between the political parties representing the country's two main ethnic groups. This policy met with some success, as the two dominant parties ceased being mono-ethnic from that point on. The international community has also been working towards the implementation of solutions to meet the legitimate aspirations of the ethnodemographic majority, while preserving the minority group's basic right to exist.

32. The lengthy political negotations did, however, result in the Convention on Governance, on 10 September 1994. But without the will to respect the Convention and in the absence of an agreement on a common political project, the measures which had been planned lost their effectiveness. The failure of the Convention and the persistence of the violence showed how fragile the political consensus was. Another coup d'état took place on 25 July 1996, led by Major Pierre Buyoya, who became Acting President. The response to this coup d'état was an embargo imposed by Burundi's neighbours, which demanded the restoration of the National Assembly, the re-establishment of the political parties and the immediate and unconditional opening of negotiations between all parties to the conflict in order for the embargo to be lifted.

33. The first two conditions were met on 16 September 1996. For the international community, the third is still far from being met, although negotiations to that end began in Arusha, Tanzania, as far back as August 1997. A few months before Arusha and approximately eight months after the coup d'état, a preliminary agreement on a general negotiation framework was concluded in Rome. On 10 March 1997, under the mediation of the Comunitá di Sant'Egidio, representatives of the Government of Burundi and of the National Council for the Defence of Democracy (CNDD) signed an agreement on the agenda for the negotiations. The meetings, which had initially been kept secret, were made public in mid-May 1997. The disclosure gave rise to opposition from all sides, probably influencing the course of the Rome negotiations, which did not continue.

34. The Rome meeting was followed by others, such as a meeting organized by UNESCO in Paris in September 1997 and the Conference on Conflict Resolution in Africa, programmed jointly by the Nyerere Foundation and UNDP and held in January 1998, although it did not deal exclusively with Burundi.

35. The direct negotiations which began in June 1998 in Arusha under the mediation of former Tanzanian President Julius Nyerere represented a step forward and reflected the national and international communities' hopes for efforts to find a peaceful solution. At the time of the Special Rapporteur's mission, however, those hopes were far from fulfilment.

B. Political situation

36. Following consultations in Dar es Salaam, the sixth round of Burundian talks was held in Arusha from 13 to 18 September 1999. No concrete progress was made at this session on the crucial questions of security, democracy and the transition. The Government and the political parties, meeting together as the "G8 Group", stressed that the hostilities must end before an agreement could be signed.

37. There is still disagreement on certain questions within the alliances in Burundi itself. Following the rebel attacks on Bujumbura, a few parties such as the Liberal Party demanded the suspension of the Arusha process in order to concentrate efforts on the war and threatened to pull out of the negotiations. The participants were also under increasing pressure by the international community to reach an agreement.

38. In response to the persistent rebel attacks on Bujumbura, self-defence groups began to be established. Following the Lusaka peace agreement (10 July 1999) on the Democratic Republic of the Congo, the local media began to report cross-border movements of rebels from the Congo to Burundi in an apparent attempt to avoid disarmament, as required by the Lusaka agreement.

39. At a meeting on 23 and 24 September 1999 in Vienna, donors confirmed their decision to make the resumption of bilateral aid conditional on the results of the Arusha talks. They did, however, maintain expanded humanitarian assistance and showed a particular interest in the strengthening of the administration of justice.

40. In view of the delays in reaching a peace agreement, the Burundi Human Rights League (Iteka) published a statement stressing the risks involved in the current political and security situation. It also called on the international community to pressure the parties to the conflict to observe a ceasefire. During September 1999, 2,082 Burundian refugees in Tanzania, mostly women and children, returned home. During the same period, 2,256 Burundians left their country as refugees.

41. In a statement to the United Nations General Assembly on 2 October 1999, the Burundian Minister for Foreign Affairs and Cooperation said that the ending of hostilities was a condition for the signing of a peace agreement in the framework of the Burundian peace negotiations. He also called on the rebel movements to take part in the talks and said that the Government was prepared to hold discussions with all the groups, even outside the framework of the Arusha process. Despite their exclusion from the Arusha talks, the Forces pour la Défense de la Démocratie (FDD), the armed wing of the Conseil Nationale pour la Défense de la Démocratie (CNDD), and the Forces Nationales pour la Libération (FNL), the armed wing of PALIPEHUTU, reaffirmed their willingness to negotiate, but also their determination to continue the armed struggle.

42. After the death of mediator Julius Nyerere on 14 October 1999, the participants in the talks said that they were still determined to continue outside negotiations. Consultations immediately began with a view to appointing a new mediator and discussing the future of the talks. After numerous consultations, former President of South Africa Nelson Mandela was appointed to replace Mr. Nyerere on 1 December 1999.

43. The international community, for its part, proved reluctant. As mentioned earlier, most of the donors hesitated to resume bilateral cooperation before a peace agreement was signed. Some decided not to wait for the results of the negotiations. For example, the Government of France granted financial aid in the amount of several million French francs, the World Bank and Belgium also made contributions without first requiring the signing of a peace agreement.

44. In October, representatives of the international community, including the Secretary-General of the United Nations, expressed concern about the forced displacement and regroupment of the population of the province of Bujumbura-rural and the increase in violence. The Under-Secretary-General for Humanitarian Affairs reaffirmed United Nations disapproval of the regroupment policy. Its attitude had no effect on the Government of Burundi, which justified its policy by the need to protect the civilian population from the fighting taking place in the provinces involved in the armed conflict.

C. Economic and social situation

45. Burundi's economy is dependent on agriculture, which provides the country with most of its foreign income and supports nearly 94 per cent of the population. The country's economic situation, which has been deteriorating since the early 1980s, worsened further with the economic embargo imposed by the international community in July 1996. Considering the gravity of the situation, action was taken at the national and international levels to persuade the international community to lift the embargo. But the suspension of the embargo in January 1999 was not followed up by sufficient development assistance and had no positive effects on the country's economy.

46. The population displacements, which intensified in October 1999, at the height of the harvest period, had an adverse effect on agriculture. In addition, the peasants had no time to tend their crops and were often forced to eat the seeds distributed to them. The war effort also considerably limited development investment.

47. Economic difficulties brought about a deterioration in social conditions. The meetings between the Special Rapporteur, the medical staff of the health centres visited and the representative of the Employers Federation indicated that AIDS was one of the country's major health problems: there is a 15 to 20 per cent rate of HIV seroprevalence among the people, 70 to 80 per cent of hospital patients in the internal medicine wing of King Khaled Hospital and 50 per cent of patients at Prince Regent Charles Hospital are AIDS sufferers.

II. HUMAN RIGHTS SITUATION

48. In a context of economic precariousness compounded by insecurity, there has been an increase in the number and seriousness of human rights violations, the most obvious signs of which are mass killings, numerous murders by people of different origins, forced displacements to the regroupment camps known as "protection sites" and irregularities in the system of justice.

A. Violations connected with the armed conflict

49. Violence connected with the civil war increased considerably during the month of September, especially in the capital. The southern provinces of Bururi, Makamba and Rutana were also the scene of rebel attacks and violent clashes between rebels and the military. Most of the acts of violence committed in September were said to be the work of rebel groups such as FDD and FNL.

50. In the second half of September 1999, the rebels attacked Bujumbura several times a week. The beginning of the attacks, 19 September, coincided with the end of the Arusha negotiations. The rebels seemed to have wanted to make a show of force to prove that they were able to take on the army in the province of Bujumbura-rural and to show their discontent with any agreement concluded without them. Thus, most of these attacks, which have produced 30 or so civilian casualties, were aimed at non-military targets, principally among the Tutsi population.

51. On 9 September, the Minister of National Defence visited the regions of Mutamba and Kanyosha and warned the people of the province of Bujumbura-rural against cooperating with the rebels. In the province of Rutana, the armed conflict was reported to have intensified since the second half of September 1999. The communes of Mpinga-Kayove, Giharo and Musongati were particularly affected by these developments.

52. In connection with the attack on Muzye, province of Rutana, it should be noted that, in July and early September, the rebel groups PALIPEHUTU-FNL and CNDD-FDD issued warnings to the international community. PALIPEHUTU-FNL announced an increase in attacks on the capital and asked foreigners to leave the country. CNDD-FDD criticized the Government's population regroupment policy. Diplomatic missions in Bujumbura were informed of the threats against foreigners at the beginning of the period in question.

53. The rebels also strengthened their presence in the Kibira forest and increased their attacks on civilians in that area. the most serious massacre, in which 30 or so civilians were killed by rebels in the commune of Muramvya, took place on 20 October 1999.

54. In the province of Bujumbura-rural, fighting between the Forces armées burundaises (FAB) and the rebel groups continued, in particular in communes such as Kanyosha, Kabezi, Mutambu, Isale and Mubimbi. Information on the impact of that situation on the civilian population in the province has become scarce owing to the regroupment of civilians in the camps and the suspension of the activities of United Nations bodies and other international organizations during the second half of the month. Information is available, however, on the situation in the areas adjacent to the capital, where many violations of human rights and humanitarian law by the FAB and the rebel groups have been reported to the Office of the High Commissioner for Human Rights in Burundi (OHCDHB).

B. Violations connected with population displacements

55. The heavy losses of military personnel and the 19 September rebel attack on Bujumbura led the authorities to return to measures they had applied in the past. In an effort to deprive the rebels of their base, exert greater control over the population and conduct military operations more effectively, the Government decided to speed up and finalize the regroupment of the population of Bujumbura-rural in camps.

56. In September 1999, the Government of the urban province of Bujumbura-Mairie (hereinafter "Bujumbura-Mairie") was reorganized and four new areas established. According to the Government, the new structure was set up in order to bring the administration closer to the people. However, consideration of these areas from a demographic standpoint shows that the division was made more or less along ethnic lines. Three of the new areas, Musaga, Gihosha and

Cibitoke, are mostly inhabited by one ethnic group, while most of the population of Kanyosha, Kamenge and Buterere belongs to another group. This reorganization came on the heels of an escalation of rebel attacks on the capital which increased ethnic tensions among the people of Bujumbura.

C. Violations of the right to freedom of movement and freedom to choose one's residence

57. The Special Rapporteur was informed that, on 20 September 1999, the authorities began the forced regroupment of the population of Bujumbura-rural in camps. There are approximately 320,000 displaced persons in the province, i.e. more than 70 per cent of its population. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), more than 800,000 people throughout the country, or 13 per cent of the total population, were displaced in late September 1999. The Office of the High Commissioner and the other humanitarian agencies were not given access to those sites until a week later, on 27 September: observers noted the alarming humanitarian situation owing to the lack of drinking water, food, medical care and shelters.

58. During the forced displacement of the population, which began on 20 September 1999, unarmed civilians were killed by the army, which organized the displacement. The Special Rapporteur learned that OHCDHB received reports of several incidents of that kind, but has not yet been able to verify them on site, as access to the places in question was refused by the military authorities on the ground of the prevailing insecurity.

59. The Special Rapporteur was informed of the regroupment conditions in the Nyambuye sector of the commune of Isale, province of Bujumbura-rural. The armed forces conducted a forced regroupment at the Gitezi site which allegedly resulted in the deaths of several people. Information points to the lack of water, food, shelters and health care and the complete lack of protection at night.

60. In October, population regroupment was stepped up in the provinces of Bujumbura-rural, Rutana and Makamba. According to the United Nations Office for the Coordination of Humanitarian Affairs, 317,384 inhabitants of Bujumbura-rural were displaced at the end of October. Several displaced persons camps in the province remain inaccessible by road, and this seriously hampers humanitarian relief efforts. The precarious conditions in the camps deteriorated further after the suspension of United Nations activities.

61. On 3 October, a new military position was established at Gitezi. Some of the displaced persons were distressed at the behaviour of the military personnel, who allegedly inflicted inhuman treatment on the displaced persons.

62. During October 1999, two displaced camps called "Chez Johnson" and "Chez Legentil", in the Kamenge area (Bujumbura-Mairie) were dismantled by the authorities, who said that they were being used as hiding places by the rebels. On or about 7 October, approximately 6,000 displaced persons from Bujumbura-rural who had come to the camps the previous September following the regroupment of the population of that province were forced by the authorities to leave the camps for regroupment camps in their own province. On 21 October, the

remaining displaced persons, mostly from the area of Kamenge itself, were forced to leave. Some displaced persons expressed concern at the scarcity of water and electricity and the lack of land.

63. This regroupment violated not only the right to freedom of movement and freedom to choose one's residence, but also economic, social and cultural rights. The camps lack the necessary infrastructures, while, in most cases, the people are forced to leave their homes without prior notice. At only a few sites, are the people occasionally given permission to go to their fields. It was not until a few days after the regroupment that the authorities appealed to the humanitarian organizations to take action to provide those displaced persons with assistance. The humanitarian organizations expressed their concern at the possibility of a deterioration of humanitarian conditions at inaccessible sites and in cases where regroupment took place over a lengthy period of time.

64. A similar situation to that of the province of Rutana was reported in the province of Makamba, where the military authorities also decided, as a counter-insurgency measure, to regroup the population in camps. This forced regroupment, together with harassment by the rebels, caused thousands of people to move into Tanzania. These refugees also come from provinces such as Rutana and Muyinga. According to UNHCR, a good number of them had only recently returned.

65. In the first week of October alone, approximately 3,000 Burundian refugees were registered by UNHCR, but movement subsequently decreased owing to the closing of the border by the Forces armées burundaises (FAB) and the figure rose to 6,531 refugees at the end of the month. That was the highest monthly refugee figure for 1999, whereas there had been a downward trend since June 1999. Returnees, however, numbered 600 to 700, considerably lower than the figures for the two preceding months.

66. In general, the suspension of United Nations activities during phase IV of the United Nations Security Plan had a serious impact on the human rights situation. First, hundreds of thousands of internally displaced persons, confined to camps lacking the necessary infrastructures, were now deprived not only of their livelihood, but of vital humanitarian assistance. Second, human rights violations continued, but went largely unnoticed, and it was difficult to obtain information about the human rights situation.

67. In view of all these developments, the human rights situation deteriorated significantly in comparison with the preceding months, when the situation was already critical. In fact, the population of several provinces had been experiencing a high level of violence since the beginning of the year. However, current developments were a sign that the conflict was intensifying. The parties to the conflict were hardening their positions and extremism was becoming widespread.

D. Violations of freedom of expression

68. On 18 October 1999, the Conseil National de la Communication suspended publication of the weekly newspaper La Vérité for two months. It justified the measure by the newspaper's

publication of a "hate-mongering" and "tribalist" article allegedly containing gratuitous accusations and insults towards the Papal Nuncio, potentially undermining privacy, security, tranquillity and cooperation with States.

E. Violations of the right to life

1. Violations attributed to agents of the State

69. On 16 September 1999, three civilians, including the Administrator of the commune, were reportedly killed by a member of the military in the commune of Buhinyuza, province of Myinga. According to information obtained from witnesses, the soldier, who was from the Nyarunazi military position, wanted to take revenge on the Administrator, Fidèle Ntukamazina, who had repeatedly reported the soldier's abusive behaviour to his military superiors. The other two victims, Epipode Mugisha and Jean Bamporiki, were allegedly in a bistro with the Administrator when the soldier opened fire and were also shot. The soldier committed suicide after the crime. The Buhinyuza chef de zone and a member of the municipal government confirmed the violation. The commander of the Nyarunzi military position, interviewed at the site, indicated that no effect had been given to the Administrator's complaints against the soldier; however, the commander confirmed the facts.

70. On 20 September 1999, 20 civilians were allegedly killed by members of the military in Rweza colline, Muyira area, commune of Kanyosha, province of Bujumbura-rural. According to testimony by inhabitants of the colline, military personnel from the Sororezo and Muyira positions executed 20 or so persons from the collines of Rweza, Muyaga, Kavumu, Kamozo and Sororezo, who had been on their way either to the market or to work in the capital. It should be noted that, on the same day, the military began a forced regroupment of the population of the commune of Kanyosha. The Governor of the province confirmed the deaths of five civilians allegedly shot during an armed confrontation.

71. On 22 September 1999, a civilian was killed by military personnel in Busige colline, Muyira area, commune of Kanyosha (Bujumbura-rural). According to accounts by inhabitants of the area regrouped in Kavumu, no one was allowed to leave the site to find food without a special exemption. On 21 September, people attempted to fetch water, but the military prevented them from doing so by opening fire. Under the same circumstances, the next day, Désiré, approximately 24 years old, the son of Vénérande, was killed in Busige colline; a witness reported having seen his body. The Administrator of Kanyosha commune and the commander of the First Military Region confirmed the facts, but believe the event to have been an accident.

72. From 27 September 1999 to 3 October 1999, seven internally displaced persons allegedly died in the Mubone area, commune of Kabezi (Bujumbura-rural). Some of the victims are said to have died from the poor conditions in the camp, especially disease, while others were killed by military personnel when they went out to the fields. Those who died of illness were for the most part children. OHCDHB submitted these cases to the Administrator of the commune, who denied that displaced persons had died, but gave no details.

73. On 4 October 1999, Dismas Bucami was allegedly killed by a member of the military at the administrative headquarters of Karuzi province. The victim, a bar-owner, was allegedly shot to death by the soldier because he refused to continue serving him drinks. The next day, the soldier was arrested by the people and interrogated by the district commander. The Karuzi prosecutor allegedly refused to allow OHCDHB to meet with the accused on the ground that the interrogation was not over. He was to be transferred to Muyinga, where his case was to be heard by the military advisor's office.

74. On 8 October 1999, six civilians were killed and seven wounded by a member of the military at Ruyaga, commune of Kanyosha (Bujumbura-rural). The incident took place at night at the regroupment site in the area; the victims were one man, two women and three children. According to witnesses, the perpetrator was drunk and opened fire during an identity check. He was immediately arrested and held in the communal detention centre at Kanyosha. The Minister of National Defence issued a press release expressing regret at the incident. Before the perpetrator was even put on trial, the press release stated that the punishment would be "suited to the crime".

75. On 15 October 1999, a civilian was allegedly killed by the FAB in the Kamenge area (Bujumbura-Mairie). The victim was a cowherd trying to find fodder for his cows. Reportedly, the owner of the cows recognized his employee, but the military put a military uniform on the victim's body and a rifle near it in order to make him appear to be a rebel. However, the chief of staff of the First Military Region insisted that the victim, who allegedly stole a gendarme's weapon, was a rebel from a group which had attacked the military position.

76. The Special Rapporteur learned that the following offences were committed during his stay in Burundi:

(a) On 3 October 1999, 37 people were allegedly killed by the FAB in retaliation for a rebel attack, in the Nkenga district, Kanyosha area (Bujumbura-Mairie). The head of military operations of the army general staff confirmed the fact that two civilians had died during an armed confrontation, on 4 October, following a rebel attack the night before on a military position in which two members of the military were killed and seven wounded;

(b) It was reported that, on 12 October 1999, three civilians were killed by the FAB and two disappeared, both in Ruziba, Kanyosha area. The head of military operations of the army general staff confirmed the fact that the FAB killed three people who were in a prohibited area and consequently taken for rebels;

(c) On 24 October 1999, eight people were allegedly killed by the FAB at Muyaga, Gihosha area (Bujumbura-Mairie). The liaison unit of the Ministry of Human Rights, Institutional Reforms and Relations with the National Assembly confirmed the deaths of three civilians, i.e. one elderly woman and two children, shot by stray bullets.

2. Violence attributed to rebel groups

77. On 3 September 1999, 15 people are reported to have been killed by rebels in the commune of Kabezi, in the province of Bujumbura-rural. The eight civilians and seven members of the military were travelling in a vehicle that was attacked by a rebel rocket on the RN3 road. Four of the civilians were Regideso employees returning from Mugere power station. The incident was confirmed by the commanding officer of the 1st military region and the Liaison Group.

78. On 9 September 1999, three civilians are reported to have been killed by rebels in Ruyigi district, Kinama area (Bujumbura-Mairie). According to eye witnesses, at around 9 p.m., armed individuals started shooting in a number of districts in the area and moved towards the premises of a women's association in Ruyigi. They fired at the nightwatchman, set fire to three vehicles and ransacked the building, carrying off money and food. Two other people were killed and an officer of the Gendarmerie's 3rd Intervention Battalion was wounded. Some witnesses blamed the attack on armed civilians from districts such as Musaga and Cibitoke, where the majority of residents are Tutsi.

79. This attack prompted many residents of the district to flee to the "Chez Johnson" and "Chez Legentil" displaced persons' camps in Kamenge. The chef de zone attributed the attack to the rebels who had killed three people. False information had been put out earlier about an imminent Tutsi militia attack. The Liaison Group of the Ministry of Human Rights has confirmed this: in its opinion, rebels were clearly responsible for the attack.

80. On 19 September 1999, at least five civilians are reported to have been killed and two others wounded by rebels in Mutanga Nord district, Kamenge area, and in Mutanga Sud district, Rohero area (Bujumbura-Mairie). Some witnesses say the rebels arrived at around 9 p.m. by way of the Ntahangwa river valley, while others state that they came by minibus as far as the bridge over the river. They are then reported to have attacked a military position in the vicinity and also passers-by. The victims were a lawyer, two nightwatchmen and one person who was burnt to death in a house; two others, one of them a soldier, were seriously wounded.

81. According to some informants, one of the objectives in this attack was the Kamenge military hospital, but the attackers never reached it. The body of one of the rebels was found in the river the next day. The Government stated in a press release that a group of rebels had attacked the area by the river Ntahangwa at around 10 p.m., targeting chiefly passing vehicles. They killed five people, wounded a number of others and set fire to or damaged cars. In its counter-attack, the army killed five of the assailants.

82. On 23 September 1999, at around 9 p.m., rebels are reported to have attacked Kinanira district in the Musaga area (Bujumbura-Mairie). The following day, OHCDHB visited the site and saw the body of a rebel wearing a military jacket. He spoke to the chef de zone, who confirmed that no civilians had been attacked. The local military position had fought off the attack after an exchange of fire lasting two hours.

83. On 23 and 24 September 1999, a large number of civilians are reported to have been killed by rebels in the communes of Musongati and Mpinga-Kayove, in the province of Rutana. In Mpinga-Kayove, several people were killed and others wounded and the health centre and primary school in Rukonka were set on fire. In Musongati, the rebels are said to have killed the chief of the Songa sector and looted several homes.

84. According to witnesses, most of the victims in the commune of Mpinga-Kayove were Tutsis, who had been specifically targeted by the attackers. One of these victims was a trader, killed in Kayero. One of those who escaped said that the rebels had attacked Cero colline (Mpinga-Kayove) on 23 September, at about 10 a.m. Some of them were in military uniform, others in civilian dress, and they had asked people whether they were Tutsis. According to some witnesses, those in uniform spoke Kinyarwanda, while those in civilian dress spoke Kirundi. From the testimony of a 16-year-old girl wounded by a machete, it seems that she was probably raped: the attackers apparently forced her to lie on the ground and she lost consciousness after being hit in the face by a machete.

85. On 4 October 1999, 13 civilians were killed and 5 others wounded by rebels in Kanga district, Kinama area (Bujumbura-Mairie). Witnesses say that an unspecified number of rebels, whom they supposed to belong to the FNL, attacked at about 8.30 p.m. Some of the attackers spoke Kinyarwanda, they were armed with guns and machetes and attacked six houses in 28th Avenue. Nine persons were killed outright and seven who were wounded were taken to the hospital, where four of them died. In addition, all the witnesses stated that the soldiers from the three positions in the area took action only after the attack and that a number of soldiers had run away.

86. On 12 October 1999, at least nine persons were killed and a number of others wounded by rebels in Giharo, the main town of Muzye area, in the province of Rutana. Two international officials of the United Nations, Mr. Zuñiga, the UNICEF Representative, and Ms. Von Meijenfeldt, responsible for logistics for WFP, were among the dead and other international and national civil servants were injured. Those who escaped testify that a group of some 35 armed persons opened fire just as a humanitarian convoy was arriving at the Muzye camp for internally displaced persons. Some of the attackers lined the United Nations officials up against the wall of a house and robbed them of their valuables before executing Mr. Zuñiga and Ms. Von Meijenfeldt. The others managed to escape. A number of Burundians, including the Director of the province's sugar factory (SOSUMO) and four soldiers, were also killed in the attack and others were wounded. Those who escaped were not able to identify the assailants, but they suspected that they were either rebels or mutineers from State forces such as the FAB seeking to sabotage the peace process.

87. The Government blames the attack on the CNDD-FDD rebel group, which is supported by former members of the Rwandan Armed Forces (FAR) and by Rwandan Interahamwe. According to the army spokesman, the attack took the military by surprise, but no soldiers were killed apart from the Rutana district commander's driver, two humanitarian aid vehicles were also burnt. The Government said that it would conduct a thorough inquiry and bring the perpetrators to justice; a report has been submitted to the United Nations Secretary-General by the Minister of Justice.

88. CNDD-FDD has denied responsibility for the attack, stating that it could not attack any place where there were civilians. It blames the FAB for the attack. The Burundi League for Human Rights asked for an official inquiry into administrative responsibility and possible negligence in security matters in a province "where security conditions were known to be unstable".

3. Acts of violence by persons unknown

89. On 28 September 1999, five civilians are reported to have been killed and one other wounded by persons unknown, in Gasenyi district, Kamenge area (Bujumbura-Mairie). Four of the victims were children, the fifth was a man; one other child was wounded. Three families were attacked and the perpetrators were not clearly identified.

90. On the night of 1 October 1999, two civilians were killed by rebels at Matonge, in the commune of Bubanza, province of Bubanza. The victims are said to have been an elderly couple; the rebels also looted four households. This allegation was communicated by the social and cultural counsellor of the Provincial Governor.

91. On 20 October 1999, at least 22 civilians are reported to have been killed and 20 others wounded by rebels at Mpehe, in Busimba sector, commune and province of Muramvya. The Governor blames the massacre on rebel groups. The Provincial Governor and the prosecutor reported that the victims were attacked with bladed weapons. The Liaison Group of the Ministry of Human Rights reported that the number of deaths was higher than 22, as some of the wounded died later.

F. Violations of the right to personal freedom and security

1. Arbitrary arrests

92. On 10 September 1999, Pierre Claver Hajayandi was arrested and detained at the offices of the Special Investigations Brigade (BSR) in Bujumbura-Mairie. According to his family, Mr. Hajayandi was arrested without a warrant and BSR refused to allow his family to visit him. He was apparently arrested after having made statements that were considered political. The family states that he suffers from an illness requiring regular attention. OHCDHB informed the State Prosecutor, but had no access to BSR during the entire period under consideration. The Liaison Group informed OHCDHB that Mr. Hajayandi was released on 20 September 1999.

93. On 16 September 1999, some 20 men were arrested by police in the commune of Buganda, province of Cibitoke. Eighteen workmen and two students from the Adventist seminary in Buganda were apparently arrested at the seminary by the police commander because they came from the province of Bujumbura-rural and some of them had not yet been registered by the administration. They were not charged with any offence or crime, the commander said. Lack of transport prevented them being transferred to their own province. A seminary official confirmed that the 18 workmen were working at the seminary and that the two students most

probably studied there. He said that seven of the workers were registered with the Gasenyi chef de zone and that the other 13 persons had arrived at the seminary just before their arrest. At the end of September, they were being held in the Buganda and Cibitoke police stations and the Cibitoke area.

94. On 20 September 1999, Nestor Ndihokubwayo was arrested by the gendarmes in the commune of Gishubi, province of Gitega, and charged with massacres and looting in 1993. The prosecution's warrant for his arrest was apparently issued three days after his detention. On 29 September, he was transferred to Gitega central prison, where OHCDHB gave him legal assistance.

95. The Special Rapporteur has been told of the case of Jean Rurubikiye, who was arrested on 29 September 1999 by the communal administrator of Mwumba, province of Ngozi. The matter related to a land dispute before the Ngozi Court of Major Jurisdiction. However, the chef de zone apparently arrested the man at the request of the complainant. OHCDHB reported the matter to the Ngozi Prosecutor and, after a joint visit to the town jail with the deputy Prosecutor on 6 October, Mr. Rurubikiye was released.

96. On 1 October 1999, Diogène Ntagorama, a Rwandan refugee, is reported to have been arrested by BSR at Bujumbura-Mairie. He was arrested on the day he was to take the plane to his country of asylum, Norway, as a refugee under the protection of UNHCR. On 4 October, OHCDHB and UNHCR met with the BSR commander, who confirmed the arrest and said it had been carried out under an international arrest warrant issued by the Kigali office of Interpol. The commander said he had handed Mr. Ntagorama over to the Rwandan security forces. The arrest and the extradition were therefore contrary to refugee law.

2. Illegal detention

97. On 15 September 1999, Ms. Jacqueline Kamikazi is reported to have been arrested in Bwiza area (Bujumbura-Mairie) and transferred on 22 September into illegal detention in a military camp. She was reportedly charged with aiding and abetting the rebellion and was detained in Musaga base camp (Bujumbura) in a cell with soldiers. She testified that she was raped by one of them during the first night in detention. She said she informed a camp official, but no action was taken. The commander of the 1st military region and the Liaison Group confirm that Ms. Kamikazi was arrested, but deny that she was detained in the same cell as men or raped. It should, however, be pointed out that her detention never had any legal basis.

3. Violations of the right to physical integrity

98. The Special Rapporteur has been informed of two cases of ill-treatment involving the detainees Léopold Niyonzima and Didace Manirakiza, registered by OHCDHB and the State Prosecutor on 23 September 1999 during a visit to the Butezi town jail.

99. The Special Rapporteur has been informed that, on 20 October 1999, three civilians were wounded by a member of the military in Gihosha area (Bujumbura-Mairie). The victims were said to be members of the choir, who were in the Mont-Sion church. The head of military

operations at army headquarters denied the allegation. According to him, there was a skirmish between a soldier and some rebels who were hiding in the church and who fired on the soldier's house, which was opposite the church. The Liaison Group has confirmed this version.

100. The Special Rapporteur has been informed of the case of Arthémon Karikurubu, said to have been tortured by the Bujumbura Public Security Police (PSP). He was arrested without a warrant on 18 October 1999 and released on 22 October without having been questioned or charged. According to the victim, on the day of his arrest, he was beaten with a hammer by the head of the PSP post in the Musaga area (Bujumbura-Mairie).

4. Irregularities noted during court proceedings

101. A number of irregularities noted during court proceedings have been brought to the Special Rapporteur's attention. One case is the trial of Fidèle Habonimana in the Court of Major Jurisdiction in the province of Muramvya. Mr. Habonimana, who was arrested in November 1998 for theft, was tortured by local residents and held in the Kiganda town jail with no medical attention. There were a number of irregularities in the court proceedings. Mr. Habonimana and those who ill-treated him were prosecuted in the same case. After his arrest, the charge of theft was changed to theft and criminal association. The victim of the ill-treatment is still in detention, while the perpetrators remain at large. Moreover, the examining magistrate in the case has been appointed president of the Court and is now on the bench. In the absence of the other accused, the case was postponed to 7 October 1999.

5. Violations of other rights

102. On 25 September 1999, rebels are said to have attacked Gatoke district, in Rohero area (Bujumbura-Mairie). They are reported to have attacked a military position located beside a cowshed, killed and decapitated a soldier, killed or wounded several others and stolen a number of cows, before setting fire to the cowshed. Two unexploded grenades were reportedly found in some neighbouring houses. In the ensuing skirmish four rebels were killed.

103. The Special Rapporteur has been informed that land belonging to several people in the Kamenge area (Bujumbura-Mairie) was expropriated when they abandoned it following military operations in the area in 1995. The Government of Burundi says that a commission was established on 23 August 1999 to settle these problems.

104. The communal administrators of Gishubi, Buraza and Mataho, all in the province of Gitega, are of the opinion that the decision by the Government of Burundi to increase school fees from 300 to 1,000 Burundi francs per pupil might be a violation of the right to education. Many displaced persons and others with few resources would not be able to pay the fees and the children would therefore not go to school.

G. Violations of the right of trade unions to function freely

105. On 10 September, Ildéphonse Ndagijimana was arrested and detained at the National Registry in Bujumbura-Mairie. The Special Rapporteur met with Mr. Ndagijimana, who is chairman of the Postal and Telecommunications Workers' Union; he was reportedly arrested

without a warrant after calling a strike, detained in a non-recognized place of detention and denied visitors. The Liaison Group reported that Mr. Ndagijimana was released on 17 September.

H. Violations of the rights of persons deprived of their liberty

1. Prisons

106. The situation in prisons improved somewhat in September and October following a reduction in the number of prisoners as a result of prosecution service efforts to clear them. According to Prison Administration statistics, the total number of detainees in September was 9,441 - a reduction of 119 on August and 9,419 in October, a figure that confirms the downward trend observed since July 1999.

107. The total number of persons in pre-trial detention in prisons has also fallen, dropping from 78 per cent in August to 76 per cent in October. Nevertheless, the length of pre-trial detention remains a serious problem and many detainees are in prison on flimsy legal grounds or quite illegally and have in some cases been there since 1994.

108. The number of persons detained in Ngozi (men's) prison and Bubanza has continued to fall. Bubanza is one of the few prisons where convicted prisoners are still in the majority (56 per cent). In Ngozi, Buriri and Muyinga, convicted prisoners account for only 7 per cent, 8 per cent and 17 per cent of the prison population. The percentage is still extremely low despite a slight rise over preceding months. In the other prisons visited by OHCDHB, there has been no noticeable change. Material conditions of detention have improved, with the help of ICRC, in particular.

109. On 29 October 1999, the population of Ngozi men's prison stood at 2,459, an increase of 11 since the beginning of the month, despite 49 releases recorded in September and 25 in October. Ninety per cent of the pre-trial detainees are charged with crimes relating to the 1993 massacres.

110. Ngozi prison also contains a women's prison with 62 inmates, of whom 24 are convicted prisoners and 38 are in pre-trial detention. The population was lower in October than in September. According to the reports, only Ngozi has a women's prison. In the other prisons, men and women are detained in the same building.

111. On 5 October 1999, Bubanza prison held 95 prisoners, including two women and three minors. Fifty-three were convicted prisoners and 42 were in pre-trial detention. The total number has once more decreased, owing - according to the Prison Governor - to five releases and seven transfers in September 1999. However, the most recent inspection by the prosecution service was made on 25 May 1999.

112. OHCDHB observers who visited the other prisons of Ngozi, Gitega and Bubanza found detention conditions there not very different.

113. The central prison of Bujumbura, Mpimba, had 2,838 prisoners (even though it was built to hold 800) at the time of the Special Rapporteur's visit on 20 October 1999, including 86 women and 31 minors officially registered. Of these, 856 or 30 per cent had been sentenced, and 229 of those to death; 1,982 or 70 per cent were in pre-trial detention. Conditions in the prison are appalling: there is not enough water for the prisoners, the sanitation is bad and the food quite inadequate (300 g of beans and 300 g of manioc flour) and protein-deficient. Financial resources are cruelly lacking. The premises date from 1960, but are in an appalling state, with prisoners living in dangerous, overcrowded conditions, exacerbated by the existence of faulty electrical circuits in the cells. The Governor told the Special Rapporteur that there was a risk of accidents.

114. The 229 prisoners in Mpimba prison who have been sentenced to death and are awaiting execution share three cells, each one measuring a few square meters. At night, when there is a little space, they sleep piled one on top of the other. The women sleep apart from the men, it is true, but they share the same courtyard and the same living space, and no one knows for how long. There is no minors' wing; children share the adults' cells; there are very young children in the prisons sharing the same quarters as criminals. In his complaints to the Special Rapporteur, the Prison Governor even requested that a school should be built within the prison for prisoners' children. The prison infirmary is a minute area of a few square meters, with a clear lack of medicines (two nurses for an average of 293 cases per week).

2. Other places of detention

115. The Special Rapporteur noted that the visits conducted by OHCDHB to the cachots in temporary detention centres in the provinces of Ngozi and Karuzi, in particular police cachots (Nyabikere, Karuzi) and the town jails in Mutumba and Nyabikere (Karuzi) and in Ngozi and Mwumba (Ngozi) and in Mubuga area, commune of Ruhororo (Ngozi), had not revealed any major irregularities. The majority of the prisoners were charged with minor ordinary offences. The prosecutors or deputy prosecutors accompanying OHCDHB on the visits released a number of those being held in some of the cachots.

116. The Special Rapporteur was able to visit the BSR cachots in Bujumbura-Mairie and noted that they were in good condition and that the number of prisoners was not very high. She was told that, owing to a lack of resources, investigations could involve pre-trial detention often far in excess of five days.

117. The Special Rapporteur noted that, on 6 October 1999, four persons were detained in the Mwumba communal cachot, province of Ngozi, all for ordinary offences. The deputy prosecutor questioned them as to the date and reasons for their arrest. Following a confrontation between them and their accusers, who happened to be present, and after hearing the communal administrator and the chef de zone in front of a large crowd watching the debate, the deputy prosecutor apparently decided to release the four prisoners immediately.

118. On the same day, the Ngozi communal cachot held four prisoners, all charged with minor offences. The deputy prosecutor decided to release one of them immediately, imposed a small fine on one of the others and remanded the remaining two in custody for a few days.

119. On 6 October 1999, five persons were in detention in the communal cachot of Mutumba, province of Karuzi. One of them had been in custody for longer than the legal period and was immediately released by the deputy prosecutor accompanying OHCDHB. The Nyabikere communal cachot in the province of Karuzi also held one prisoner, arrested the same day.

I. Status of women

120. Although the legislation in force does not discriminate specifically against women, economic problems and the burden of tradition have relegated women to a position of inferiority. Yet, they represent 52 per cent of the Burundian population and many of them have become heads of household because of the war. Women are subjected to discrimination in politics and education, for example, no women participated in the Arusha negotiations. Women are well-represented in primary education; currently, 38 per cent of secondary school students are girls, but they account for only 23 per cent of the university student population.

121. Women enjoy no rights of succession, they cannot own property or even enjoy the goods produced by their own labour. Some go into prostitution because of poverty and the lack of separation between male and female prisoners encourages rape.

122. The budget allocated to the Ministry of Social Action and the Advancement of Women shows that women are not among the Government's priorities. However, initiatives for the improvement of the status of women are being implemented by women's associations, which receive assistance from the United Nations Development Fund for Women (UNIFEM), the United Nations Development Programme (UNDP) and international non-governmental organizations (NGOs). These initiatives, coupled with good will, could transform women into active promoters of a culture of peace and respect for human rights.

J. Strengthening the rule of law

1. Technical cooperation

123. The programme focuses primarily on the training of legal professionals and aims to reach at least 60 per cent of staff in each category so that there are at least two trained judges in each court (bench and prosecution). It receives assistance from OHCDHB. The new Code of Criminal Procedure is currently being popularized in connection with this project. During the period under review, discussions related to the printing of the Code and its translation into Kirundi, the preparation of an explanatory booklet and the training of trainers for the popularization of the text.

124. The Special Rapporteur has taken note with satisfaction of the progress achieved with the help of the legal assistance programme, which normally involves six international and eight Burundian lawyers brought together by OHCDHB. Of the 145 cases on the docket in September 1999, only 17, i.e. 12 per cent, have been closed. Most cases have been deferred because of the absence of witnesses or persons associated with the prosecution. One extremely positive development, however, is that the death penalty has not been applied and 47 of the persons tried were acquitted. There have also been slightly more shorter sentences than life sentences.

125. With barely 10 per cent of the cases closed, productivity for October 1999 was below the monthly average, probably because there was no lawyer present in many cases. Once again, the lowest output levels were recorded in Ngozi, where only 5 of 99 cases were closed. On the other hand, the Criminal Division in the province of Gitega did not hand down any death sentences, confirming the trend in that court to the restricted use of the death penalty. The unusually high proportion of life sentences (53 per cent) is attributable to the fact that, in one single case in the Bujumbura Criminal Division, 23 persons were sentenced in their absence to life imprisonment.

126. Between July and September 1999, the Supreme Court handed down decisions in 17 cases and overturned one. There is a serious hindrance to the proper administration of justice in that Court, since accused persons and their counsel are not provided with a copy of the sentence to enable them to lodge an appeal. As the time-frame allowed for remedies is short, they are forced to appeal without knowing the exact grounds of the judgement handed down by the Criminal Division. OHCDHB has raised this matter with the Supreme Court on several occasions, but the Court has so far not demonstrated its willingness to find an appropriate solution.

127. The eleventh session of the criminal divisions ran from 11 October to 11 November 1999. There were 282 cases on the docket and only 27 of them were closed. Most of the cases have been deferred because of the absence of witnesses or persons associated with the prosecution, and others because lawyers could not travel around the country, for security reasons. The legal assistance offered by OHCDHB was interrupted in Ngozi and Gitega from 14 October to 25 October and 28 October, respectively, when United Nations staff was called back to Bujumbura under phase IV of the Security Plan. Legal assistance was interrupted in Bujumbura for a short time only.

128. On 7 September 1999, the Bujumbura Criminal Division handed down a ruling in the RPCC 891 case against Eloi Kwizera and Ladislas Nsabimana, who were accused of robbery. Mr. Kwizera was sentenced to 10 years' imprisonment and Mr. Nsabimana to 20 years. The court gave Mr. Kwizera the maximum sentence to which he was liable under article 16 (1), chapter I, of the Penal Code. However, that was a violation of Burundian legislation, since the accused was 14 years old at the time when the crime was committed and should therefore not have been given the maximum sentence. After OHCDHB intervened, Mr. Kwizera's name was put on the list of prisoners likely to be released soon on parole.

129. On 22 October 1999, a decision was handed down in case RPCC 784 in which four persons were accused of carrying out an attack involving a massacre, looting and widespread destruction (art. 417, CP L11) in the province of Karuzi. They were all sentenced to death. Several appeals were filed, but the witnesses went back on their statements to the police and the Prosecutor's Office. The same witnesses had testified in the appeal cases brought before the Gitega Criminal Division without naming the four accused as accessories to the massacres committed in Karuzi. Despite the thorough investigation that had been conducted to elucidate the truth and ensure the proper administration of justice, all the accused were given death sentences. Their lawyers filed appeals.

130. During the period under review, the Special Rapporteur noted that certain actions on the part of the courts and the Prosecutor's Office could be interpreted as tangible signs that the administration of justice had improved. For example, conditional release was granted in a case involving persons accused of assault and armed gang involvement, but this is a rare occurrence. It was also noted that prosecutors and accused assisted by legal counsel are increasingly being placed on an equal footing. Prosecutors are beginning to understand that their job entails investigations both for the prosecution and for the defence and therefore sometimes request conditional release for an accused person.

2. Human rights promotion and education

131. In order to promote human rights, exchanges have taken place between human rights promoters in Burundi, with the assistance of OHCDHB. The establishment of a framework for dialogue and discussion with the beneficiaries of the Office's activities comes within the context of responsible participation aimed at involving them in the new strategies. OHCDHB has thus been liaising with institutional partners, local associations and humanitarian organizations. The initiative is designed to create a close association between these partners at the programme formulation stage in order to take greater account of their needs and concerns.

132. As part of activities to increase awareness of and promote human rights, several workshops were held in the various provinces with the participation of OHCDHB, the Ministry of Human Rights, United Nations bodies and NGOs operating in Burundi. The workshops were held in September and October and focused on fundamental rights and children's rights.

III. OBSERVATIONS

133. On the whole, the human rights situation in Burundi has deteriorated, as shown by the increase in violations of the right to life and physical integrity, allegedly committed by State agents, armed rebel groups and unidentified gangs. Civilians' right to protection is often violated during rebel attacks, military operations and clashes between the army and rebels. Frequently, the civilian population is accused of complicity and attacked by both sides.

134. During hospital visits, the Special Rapporteur saw scores of women and children who had been shot or mutilated, including an infant only a few months old who had been shot while being carried on his mother's back. At the military hospital, there were also cases of serious mutilation caused by anti-personnel mines laid by rebels.

135. The displacement of the population to regroupment camps not only takes place under coercion, but has also led to gross violations of the rights to life, liberty and security of person, freedom of movement and residence, property ownership, housing, work and the free choice of employment, health, education, adequate food and a decent living. Although the authorities justify the regroupment policy by the claim that they are trying to protect the civilian population, living conditions in the camps cast doubts on the truth of that claim and the real purpose of the policy.

136. The civil war, large-scale displacements, the regroupment of persons and increasing poverty have led to the violation of several rights of the child, as provided for in the Convention

on the Rights of the Child, which has been ratified by Burundi, especially with regard to displacements, ill-treatment, the protection of children who have been deprived of their family environment, disabled children, health care, the right to education, the rights to be protected against sexual exploitation, torture and deprivation of liberty, the right to protection of children in armed conflict and the rights of children who have committed an offence.

137. The seriousness of the human rights situation is, however, recognized by everyone in Burundi and they definitely want to improve it. For instance:

(a) All politicians recognize that there have been many human rights abuses, although some of them try to blame it on the war;

(b) In the judiciary and the prison system, efforts are being made to combat irregularities in pre-trial detention. Admittedly, a lot of ground remains to be covered for the rule of law to be established in Burundi, but there are a few glimmers of hope;

(c) In civil society, especially among women, there seems to be a desire to put an end to war and division; ideas and actions are being guided by the beginnings of a culture of peace and human rights.

138. All the actors involved agree that poverty has affected the human rights situation, but much remains to be done to combat growing impoverishment. The extreme poverty that goes together with human rights violations often creates a dilemma for the representatives of the international community and donors: should they step up international pressure by reducing assistance, especially development assistance, or by withdrawing it altogether, knowing that this might make poverty worse? Or should they promote assistance and take the risk of giving free rein to all sorts of human rights violations? The first option gives priority to civil and political rights, whereas the second focuses on economic rights, at the expense of civil and political rights.

139. In this context, it might be a rather extreme solution to make the granting of assistance conditional on the implementation of the provisions of the Arusha Agreement and the conclusion of a peace agreement. Some countries and organizations have, moreover, softened their positions in this regard.

140. An analysis of the human rights situation in Burundi must take account of the fact that Burundian society is strongly influenced by tradition. This problem, which has both negative and positive effects, is reflected in many areas of political, economic, social and cultural life. The continued adoption of traditional approaches by some persons, particularly those belonging to the political elite, may negatively influence their perception and idea of respect for human rights. However, a policy for the prevention and promotion of human rights would be more effective if it included certain traditional values (see para. 152). Emphasis must therefore be placed on a policy of human rights education because there is no point in denouncing and punishing violations of universal human rights principles if the people concerned are not familiar with them.

141. Pressure by the international community is also less effective if extreme poverty, which is not a good guide, pushes people into committing abuses. Greater awareness must therefore be developed of the need for respect for economic and social rights, especially those of women and children, the main victims of the conflict.

142. It should be noted that the reduction of technical assistance and cooperation in the field of public health penalizes the population, which needs medical care and medicines to survive in time of war.

143. The Burundian economy is dependent on subsistence farming, based mainly on traditional farming methods, but, if cooperation and trade are reduced, there will be no hope of the modernization of the economy, which is essential during this time of globalization and whose effects would benefit all Burundians, not just the political elite.

144. The situation in Burundi therefore has to be viewed in the light of all these factors, so that solutions may be found that involve all the players concerned at the national and international levels.

IV. RECOMMENDATIONS

A. To the parties to the conflict

145. The Special Rapporteur invites the parties to the conflict - rebels and agents of the State - to end attacks on civilians and to respect the lives of the civilian population and representatives of humanitarian organizations who are sparing no effort, at the risk of their own lives, to assist Burundians.

146. Peace and security must prevail in Burundi if human rights violations are to be stopped. All the parties involved in the conflict must therefore be encouraged to participate fully in the negotiations so that a ceasefire may be reached and a peace agreement signed as soon as possible.

147. In addition to a commitment to resolve conflicts without resorting to the use of weapons, all the parties to the conflict must give the new facilitator of the peace negotiations in Arusha their unfailing support and do their share to ensure that the internal partnership works smoothly.

148. The Special Rapporteur is launching an appeal to the parties to the conflict to guarantee the safety and free access of representatives of humanitarian and human rights organizations to those in need.

B. To the Burundian authorities

149. The regroupment of the population is an unacceptable practice; this has been made known to the Government of Burundi many times and has been condemned by the international community. The Government must therefore be invited in no uncertain terms to suspend its policy of population displacement and to take appropriate measures to guarantee human rights, including economic and social rights.

150. In view of the economic and social situation, the Government should take all appropriate measures to combat poverty and insecurity.

151. It should seek to guarantee the more equitable distribution of goods and take more effective measures to combat regional disparities and the exploitation of ethnic differences. In this connection, the steps taken by the Ministry of Education to combat inequalities and regional disparities in education are to be encouraged and sustained, as is the action taken in the judicial field and by the Ministry of Human Rights.

152. The Government of Burundi must take all necessary measures to disseminate and implement that the new Code of Criminal Procedure. In order to help bring the justice system and persons subject to its jurisdiction closer together and, in general, to promote human rights in Burundi, the Special Rapporteur invites the Burundian authorities to draw on or increase reliance on traditional values and institutions that have existed in Burundi for centuries, such as the Ubushingantahe and the Bashingantahe.* The project to activate some of these traditions and institutions is supported by UNDP.

153. The Government should set up a national police force which is separate from the national armed forces in order to make a clear-cut distinction between their functions.

154. The Government must enact legislation to ensure the advancement and fulfilment of women in order to combat de facto inequalities and encourage greater participation by women in development and political decision-making.

155. The Government must take all necessary measures to support the efforts being made by civil society to improve the status of women. It must also increase funding for the Ministry of Social Action and the Advancement of Women so that it may play the role assigned to it.

156. In order to reduce sources of conflict, the Government must take all necessary steps to combat exclusion and impunity.

157. Since humanitarian assistance is one of the essential means of ensuring the population's survival in time of civil war, the Government must take all necessary measures to guarantee the safety of convoys and the persons responsible for delivering and distributing assistance for the benefit of those in emergency situations.

C. To the international community

158. The international community must provide all possible assistance to the Burundi Peace Process in Arusha and to the new negotiations facilitator. It must support the initiatives already taken by Mr. Mandela to bring the peace process to a rapid conclusion.

---

* See the addendum to the 1996 report by Mr. Paulo Sérgio Pinheiro for more detailed information on these two traditional dispute settlement mechanisms (E/CN.4/1996/16/Add.1, para. 56 and footnote 5/).

159. In order to combat poverty and its consequences, the Burundian economy needs to be boosted. The Special Rapporteur invites the international community to consider increasing assistance and support for community projects by providing access to microcredit, especially for women, and backing for associations whose statutes respect human rights principles. Donors and donor countries should also be urged to reconsider their attitude towards development assistance so that such assistance might have a significant impact on the economy.

160. The international community must keep up its pressure in favour of respect for human rights, especially social and economic rights, but pressure and support combined would be more effective than retaliatory measures alone. Such an approach would strengthen the moderates' influence and lead more rapidly to the conclusion of a peace agreement.

161. In order to combat impunity and irregularities in the system of justice, it is essential:

(a) To continue to support the legal assistance programme being implemented by the Office of the High Commissioner for Human Rights in Burundi (OHCDHB);

(b) To encourage and support the initiatives taken along these lines by government departments such as the Ministries of Justice, Human Rights and Education, NGOs, human rights associations and multilateral organizations;

(c) To help with the implementation of measures to combat irregularities in the justice system, including the new Code of Criminal Procedure.

162. Observation and exposure cannot continue to be the only weapons used to combat human rights violations. In order to facilitate the emergence of a human rights culture, greater support must be given to initiatives for human rights education and promotion, in cooperation with OHCDHB.

163. In order to facilitate the emergence of a culture of peace, greater support must be given to international programmes in favour of women, especially those which focus on raising awareness of and disseminating information on the rights of women and children.

164. As to security, the maintenance of phase IV of the Security Plan has produced extremely regrettable consequences. Emergency humanitarian assistance must be maintained, but in adequate security conditions. An agreement therefore has to be signed between the Burundian authorities and the United Nations to guarantee such conditions. In the current crisis situation, action to guarantee respect for human rights is one way of ensuring the survival of the population. It would therefore be unfortunate if the funds earmarked for that campaign were decreased. They should, rather, be increased, in view of the considerable reduction in the number of OHCDHB observers, of whom there are now five. There is no doubt that the presence of observers is a very effective monitoring and deterrence tool.

165. The international community, in particular the States of the subregion, must step up their efforts against the illicit traffic in weapons and munitions and ensure that refugee camps are kept strictly civilian.

166. Bearing in mind the strong interdependence of the States of the Great Lakes region and the fact that peace and security in Burundi are bound to affect peace and security in the region as a whole, the holding of an international conference on these issues must be encouraged.

167. Lastly, the international community must spare no effort to bring about an immediate end to the killings, massacres and other forms of violations of human rights in Burundi, including those of women and children. These acts of violence are most often committed against innocent, defenceless people whose only desire is to live, flourish and prosper in this beautiful country where everyone used to live in harmony.